

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KEVIN S. O'LEARY,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

Case No. C20-1020-RSL

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL

Petitioner, proceeding pro se in this 28 U.S.C. § 2255 proceeding, filed a motion for appointment of counsel. (Dkt. 2.) The undersigned referred the motion to the Office of the Federal Public Defender for consideration. (Dkt. 8.) On July 28, 2020, the Office of the Federal Public Defender advised the Court it did not intend to seek appointment in this matter. (Dkt. 9.) Now, having considered the motion and the response of the Office of the Federal Public Defender, the Court does hereby find and ORDER as follows:

(1) There is no constitutional right to appointed counsel to pursue collateral review of a conviction or sentence. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987). A right to appointed counsel does arise for a financially qualified individual seeking relief under 28 U.S.C. § 2255 when the court determines that an evidentiary hearing is required. Rule 8(c) of the Rules Governing

1 Section § 2255 Cases in the United States District Courts. In addition, the Court may exercise its
2 discretion to appoint counsel at an earlier stage of § 2255 proceedings when the Court determines
3 that it is in the interests of justice to do so. *Id.*; 18 U.S.C. § 3006A(a)(2). The Court, in this case,
4 does not find the interests of justice are best served by appointment of counsel at the present time.
5 Petitioner's request for appointment of counsel (Dkt. 2) is therefore DENIED.

6 (2) The Clerk is directed to send copies of this Order to petitioner, to counsel for
7 respondent, and to the Honorable Robert S. Lasnik.

8 DATED this 5th day of August, 2020.

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11 Mary Alice Theiler
12 United States Magistrate Judge
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